

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *kg* D.C.
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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN MEMPHIS

JOSHUA HUMPHREY and
JEFF DAVIS,

Plaintiffs,

v.

No. 05-2398 B

CITY OF MEMPHIS and
ERIC RICHARDSON, individually,

Defendants.

ORDER DIRECTING CLERK OF COURT TO MAIL TO PLAINTIFF'S
COUNSEL OCTOBER 11, 2005 ORDER TO SHOW CAUSE WHY CLAIMS AGAINST
INDIVIDUAL DEFENDANT SHOULD NOT BE DISMISSED AND SECOND
ORDER TO SHOW CAUSE

On October 11, 2005, this Court entered an order directing the Plaintiffs, Joshua Humphrey and Jeff Davis, to show cause within 11 days why their claims against the individual Defendant, Eric Richardson, should not be dismissed for failure to prosecute. Although the Plaintiffs have failed to respond to the show cause order and the time for such response has expired, the Court deems it inappropriate to dismiss the claims against Richardson at this time.

On October 5, 2005, the Court granted the motion to dismiss filed by the municipal Defendant, the City of Memphis, based on the Plaintiffs' failure to respond either to the dispositive motion or to a show cause order entered September 1, 2005. On October 26, counsel for the Plaintiffs moved for relief under Rule 60(b) of the Federal Rules of Civil Procedure, arguing that he had moved his law practice and copies of Court orders continued to be sent to his former law firm. He maintained that, as a result, he was unaware of the entry of the orders until they were hand

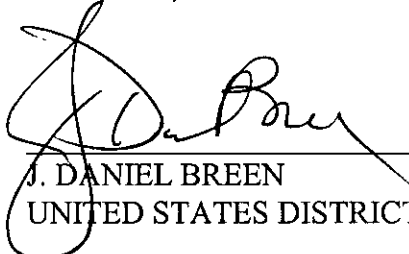
delivered to him by a paralegal who worked for his previous employer. In an order entered this same date, the Court granted the relief sought and reinstated the Plaintiffs' action against the municipal Defendant.

As a consequence, the Court must assume counsel also did not receive the October 11, 2005 show cause order concerning the individual Defendant. The Clerk of Court is hereby ORDERED to mail a copy of the October 11, 2005 show cause order, as well as this order, to Plaintiff's counsel at the following address:

Tim W. Smith
352 Poplar View Lane East
Collierville, Tennessee 38017.

Counsel for the Plaintiffs is advised that he must respond to the show cause order within 11 days of the entry thereof. Failure to timely respond *will* result in dismissal of the Plaintiffs' claims against Richardson.

IT IS SO ORDERED this 14th day of December, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 17 in case 2:05-CV-02398 was distributed by fax, mail, or direct printing on December 15, 2005 to the parties listed.

Henry L. Klein
APPERSON CRUMP & MAXWELL, PLC
6000 Poplar Ave.
Ste. 400
Memphis, TN 38119--397

Tim W. Smith
LAW OFFICE OF TIM W. SMITH
352 Poplar View Lane, E.
Collierville, TN 38017

Honorable J. Breen
US DISTRICT COURT